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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,890	07/03/2003	Casimir R. Kiczek	02-11	6893

7590 03/11/2005

Intellectual Property Department
Dura Automotive Systems, Inc.
2791 Research Dr.
Rochester Hills, MI 48309

EXAMINER

JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,890

Applicant(s)

KICZEK ET AL.

Examiner

Vicky A. Johnson

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 1-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/3/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 4 and 10 are objected to because of the following informalities: Claim 4 contains a typographical error "...selectively for the group...", a suggestion would be --selected from the group--; in claim 10 "aperature" should be --aperture--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9 lines 11-13 it is unclear which members are being referred to, the 'support members' or the 'control members'.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7, 9-14, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dully (US 3,282,125).

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Dully discloses a pedal comprising in combination: a first member (20) having one end, another end and a slot (30) formed between the one end and another end; a pin (36) disposed in the slot; a second member (48) connected to the pin and movable along the slot relative to the first member; a biasing member (54) adjacent the pin and biasing the second member toward the one end; and a tension control member (58, 68) connected to the pin to selectively adjust the second member, the tension control member having a secondary locking member (38, 64), and first and second control members (46, 48).

Re claim 2, the secondary locking member includes a gear (38) and pawl (58) to prevent movement of the second member in one condition and to permit movement of the second member in another condition (col. 2 lines 40-68).

Re claim 3, the tension control member includes a manually actuated adjuster (70).

Re claim 4 the biasing member is selectively for the group of a torsion spring, a coil spring and an elastomeric member (see Fig 1).

Re claim 5, the gear is a gear sector adjacent the slot and the pawl has at least one tooth (62) to engage the gear sector (see Fig 1).

Re claim 6, the tension control member includes a cable (68), the cable is attached to an actuator (70).

Re claim 7 the tension control member includes an actuator, the actuator including a manually actuated cable adjuster (70).

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Re claim 10, the slot is one of elongated aperture, arcuate, "S" shaped, "C" shaped and non-linear (see Fig 1).

Re claim 12, the secondary lock is mounted on the pin (see Fig 3).

Re claim 13 the secondary lock includes a rotatable pawl (see Fig 3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dully (US 3,282,125) in view of Levine (US 6,820,895).

Dully discloses a device as described above, but does not disclose a motor driven actuator.

Levine discloses a cable operated pedal device having a motor (62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Dully to include a motor driven actuator as taught by Levine in order to automatically adjust the position of the driver (col. 6 lines 42-58).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

3,975,972

Muhleck

(cable adjustable)


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5,676,220	Dapsi et al	(cable adjustable)
4,841,798	Porter et al	(locking mechanism)
3,861,237	Mounts	(locking mechanism)
3,333,902	Liverance et al	(cable adjustable)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (703) 305-3013. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (703) 308-3668 or (571) 272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Vicky A. Johnson
Examiner
Art Unit 3682

3/8/09